

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEBORAH C. HARTE on behalf of
herself and all others similarly situated,

Plaintiff,

V.

OCWEN FINANCIAL CORP. and OCWEN
LOAN SERVICING, LLC,

Defendants.

Civil Action No. 2:13-cv-5410-MKB-RER

**DECLARATION OF BRIAN M. FORBES IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
ON PLAINTIFF'S INDIVIDUAL CLAIMS**

Pursuant to 28 U.S.C. § 1746, I, Brian M. Forbes, declare under penalty of perjury as follows:

1. I am duly admitted to practice law in the Commonwealth of Massachusetts and am admitted *pro hac vice* to practice before the United States District Court for the Eastern District of New York in the above-captioned action.

2. I am a partner in the Boston office of K&L Gates LLP and am counsel of record for Ocwen Loan Servicing, LLC (“OLS”) and Ocwen Financial Corporation (“OFC”) (collectively “Defendants”) in the above-captioned action filed by Plaintiff Deborah C. Harte (“Plaintiff”).

3. I submit this Declaration in support of Defendants' Motion for Summary Judgment on Plaintiff's Individual Claims in the above-captioned action.

4. Attached as Exhibit 1 is a true and correct copy of excerpts from the transcript of the deposition of Plaintiff Deborah C. Harte dated October 20, 2016. Exhibit 1 is being filed

under seal pursuant to the Stipulated Protective Order Regarding Confidential Discovery Material entered by the Court on December 19, 2013 (“Stipulated Protective Order”).

5. Attached as Exhibit 2 is a true and correct copy of the Adjustable Rate Note executed by Plaintiff in favor of Federal Mortgage & Investment Corporation and dated September 15, 2005, which was introduced and authenticated as Exhibit 8 during Plaintiff’s deposition. Exhibit 2 is being filed under seal pursuant to the Stipulated Protective Order.

6. Attached as Exhibit 3 is a true and correct copy of the Mortgage executed by Plaintiff in favor of Federal Mortgage & Investment Corporation and dated September 15, 2005, which was introduced and authenticated as Exhibit 9 during Plaintiff’s deposition.

7. Attached as Exhibit 4 is a true and correct copy of the forbearance agreement dated February 26, 2007, which was introduced and authenticated as Exhibit 11 during Plaintiff’s deposition. Exhibit 4 is being filed under seal pursuant to the Stipulated Protective Order.

8. Attached as Exhibit 5 is a true and correct copy of the forbearance agreement dated June 29, 2007, which was introduced and authenticated as Exhibit 14 during Plaintiff’s deposition. Exhibit 5 is being filed under seal pursuant to the Stipulated Protective Order.

9. Attached as Exhibit 6 is a true and correct copy of the loan modification agreement signed by Plaintiff on or about February 18, 2009, which was introduced and authenticated as Exhibit 22 during Plaintiff’s deposition. Exhibit 6 is being filed under seal pursuant to the Stipulated Protective Order.

10. Attached as Exhibit 7 is a true and correct copy of the loan modification agreement signed by Plaintiff on or about May 21, 2010, which was introduced and authenticated as Exhibit 25 during Plaintiff’s deposition. Exhibit 7 is being filed under seal pursuant to the Stipulated Protective Order.

11. Attached as Exhibit 8 is a true and correct copy of the loan modification agreement signed by Plaintiff on or about June 29, 2010, which was introduced and authenticated as Exhibit 26 during Plaintiff's deposition. Exhibit 8 is being filed under seal pursuant to the Stipulated Protective Order.

12. Attached as Exhibit 9 is a true and correct copy of the loan modification agreement signed by Plaintiff on or about January 14, 2011, which was introduced and authenticated as Exhibit 27 during Plaintiff's deposition. Exhibit 9 is being filed under seal pursuant to the Stipulated Protective Order.

13. Attached as Exhibit 10 is a true and correct copy of a 27-page fax and 30 page fax sent by Plaintiff to OLS on December 28, 2011, which documents were introduced and authenticated as Exhibits 33 and 34 during Plaintiff's deposition. Exhibit 10 is being filed under seal pursuant to the Stipulated Protective Order.

14. Attached as Exhibit 11 is a true and correct copy of the December 5, 2011 letter from DeRose & Surico, OLS's foreclosure counsel, to Plaintiff regarding her mortgage loan being referred to foreclosure, which was introduced and authenticated as Exhibit 32 during Plaintiff's deposition. Exhibit 11 is being filed under seal pursuant to the Stipulated Protective Order.

15. Attached as Exhibit 12 is a true and correct copy of the January 2, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application, which was introduced and authenticated as Exhibit 36 during Plaintiff's deposition. Exhibit 12 is being filed under seal pursuant to the Stipulated Protective Order.

16. Attached as Exhibit 13 is a true and correct copy of the January 10, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application,

which was introduced and authenticated as Exhibit 40 during Plaintiff's deposition. Exhibit 13 is being filed under seal pursuant to the Stipulated Protective Order.

17. Attached as Exhibit 14 is a true and correct copy of the January 16, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application, which was introduced and authenticated as Exhibit 42 during Plaintiff's deposition. Exhibit 14 is being filed under seal pursuant to the Stipulated Protective Order.

18. Attached as Exhibit 15 is a true and correct copy of the February 12, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application, which was introduced and authenticated as Exhibit 43 during Plaintiff's deposition. Exhibit 15 is being filed under seal pursuant to the Stipulated Protective Order.

19. Attached as Exhibit 16 is a true and correct copy of the April 10, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application, which was introduced and authenticated as Exhibit 49 during Plaintiff's deposition. Exhibit 16 is being filed under seal pursuant to the Stipulated Protective Order.

20. Attached as Exhibit 17 is a true and correct copy of the first April 19, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application, which was introduced and authenticated as Exhibit 51 during Plaintiff's deposition. Exhibit 17 is being filed under seal pursuant to the Stipulated Protective Order.

21. Attached as Exhibit 18 is a true and correct copy of the second April 19, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application, which was introduced and authenticated as Exhibit 52 during Plaintiff's deposition. Exhibit 18 is being filed under seal pursuant to the Stipulated Protective Order.

22. Attached as Exhibit 19 is a true and correct copy of the January 3, 2012 letter from OLS to Plaintiff providing information about the loan modification application process, which was introduced and authenticated as Exhibit 37 during Plaintiff's deposition. Exhibit 19 is being filed under seal pursuant to the Stipulated Protective Order.

23. Attached as Exhibit 20 is a true and correct copy of the April 3, 2012 letter from OLS to Plaintiff providing information about the loan modification application process, which was introduced and authenticated as Exhibit 46 during Plaintiff's deposition. Exhibit 20 is being filed under seal pursuant to the Stipulated Protective Order.

24. Attached as Exhibit 21 is a true and correct copy of the April 4, 2012 letter from OLS to Plaintiff providing information about the loan modification application process, which was introduced and authenticated as Exhibit 47 during Plaintiff's deposition. Exhibit 21 is being filed under seal pursuant to the Stipulated Protective Order.

25. Attached as Exhibit 22 is a true and correct copy of the first April 24, 2012 letter from OLS to Plaintiff informing Plaintiff that her application for a HAMP modification had been denied because she had not submitted all required documents, which was introduced and authenticated as Exhibit 53 during Plaintiff's deposition. Exhibit 22 is being filed under seal pursuant to the Stipulated Protective Order.

26. Attached as Exhibit 23 is a true and correct copy of the second April 24, 2012 letter from OLS to Plaintiff informing Plaintiff that she was not eligible for a HAMP modification because she had not submitted all required documents, which was introduced and authenticated as Exhibit 54 during Plaintiff's deposition. Exhibit 23 is being filed under seal pursuant to the Stipulated Protective Order.

27. Attached as Exhibit 24 is a true and correct copy of the April 27, 2012 letter from OLS to Plaintiff informing Plaintiff that she was not eligible for a non-HAMP modification because she had not submitted all required documents, which was introduced and authenticated as Exhibit 55 during Plaintiff's deposition. Exhibit 24 is being filed under seal pursuant to the Stipulated Protective Order.

28. Attached as Exhibit 25 is a true and correct copy of the May 24, 2012 letter from OLS to Plaintiff requesting documents missing from her loan modification application during the review period, which was introduced and authenticated as Exhibit 58 during Plaintiff's deposition. Exhibit 25 is being filed under seal pursuant to the Stipulated Protective Order.

29. Attached as Exhibit 26 is a true and correct copy of the July 8, 2012 letter from OLS to Plaintiff providing "final notice" regarding missing documents, which was introduced and authenticated as Exhibit 59 during Plaintiff's deposition. Exhibit 26 is being filed under seal pursuant to the Stipulated Protective Order.

30. Attached as Exhibit 27 is a true and correct copy of the foreclosure complaint filed against Plaintiff on May 16, 2012, which was introduced and authenticated as Exhibit 62 during Plaintiff's deposition. Exhibit 27 is being filed under seal pursuant to the Stipulated Protective Order.

31. Attached as Exhibit 28 is a true and correct copy of the Detail Transaction History for Plaintiff's loan, which was produced as part of Plaintiff's loan file maintained by OLS. Exhibit 28 is being filed under seal pursuant to the Stipulated Protective Order.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
UNITED STATES THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED THIS
26TH DAY OF MAY, 2017, IN BOSTON MASSACHUSETTS

By: /s/ Brian M. Forbes

Brian M. Forbes

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served by Federal Express and electronic mail on counsel for plaintiff (identified below) on this 26th day of May, 2017.

Counsel for Plaintiff:

Robert I. Harwood
Daniella Quitt
Benjamin I. Sachs-Michaels
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New York, NY 10022

/s/ Brian M. Forbes

Brian M. Forbes